



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2019–N085; FXES11140100000–190–FF01E00000]

Final Programmatic Environmental Impact Statement, Habitat Conservation Plan, and Habitat Conservation Plan Amendments; Incidental Take Permits for Four Wind Energy Projects in Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final programmatic environmental impact statement (PEIS), prepared in accordance with the National Environmental Policy Act, analyzing the impacts of the issuance of incidental take permits (ITPs) or ITP amendments for the continued operation of four similar wind energy facilities. The permit actions would involve implementation of a new habitat conservation plan (HCP) for the Pakini Nui Wind Farm on the Island of Hawaii and major amendments to three existing HCPs: the Auwahi Wind and Kaheawa

Wind Power II projects located on Maui, and the Kawaihoa Wind project on Oahu. All four wind energy facilities are already in operation. The four applicants are requesting ITPs covering the take of species listed as endangered under the Endangered Species Act likely to be caused by the continued operation of the projects. The HCPs describe the steps each applicant proposes to minimize, mitigate, and monitor incidental take of the covered species.

DATES: A record of decision for each of the four HCPs will be finalized no sooner than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Electronic copies of the final PEIS, HCP, and HCP amendments are available at <https://www.fws.gov/pacificislands>. Copies of these documents are also available for public inspection during regular business hours, at the Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3-122, Honolulu, HI 96850.

FOR FURTHER INFORMATION CONTACT: Michelle Bogardus, at 808-792-9473, or Darren LeBlanc at 808-792-9403. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 800-877-8339 during normal business hours. The FRS is also available 24 hours a day, 7 days a week, to leave a message or question.

SUPPLEMENTARY INFORMATION: The Service received incidental take permit (ITP) applications from four wind energy companies (applicants) in accordance with the requirements of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The proposed ITP and ITP amendments would authorize take of one or more of the following species: the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), the endangered Hawaiian goose (*Branta sandvicensis*), and the endangered Hawaiian petrel (*Pterodroma sandwichensis*), hereafter collectively referred to as the covered species.

Pakini Nui Wind Farm

The Pakini Nui Wind Farm is operated by Tawhiri Power, LLC, and is located on Ka Lae or South Point on the Island of Hawaii. Tawhiri Power, LLC, submitted a draft HCP to support their request for an ITP, but has not yet obtained an ITP for their project. The Pakini Nui Wind Farm, which began operations in April 2007, consists of fourteen 1.5 megawatt (MW) wind turbine generators. Ancillary facilities include 1 mile of underground connector lines, an operation and maintenance building, a substation, and an overhead electrical transmission line connecting the facility substation to the County's electrical grid. The entire project facility footprint is 79.42 acres. Tawhiri Power, LLC, is requesting incidental take authorization for 26 Hawaiian hoary bats, 3 Hawaiian petrels, and 3 Hawaiian geese over an 8-year permit term.

Pakini Nui proposes to implement nighttime low-wind speed curtailment (LWSC) at 5.0 meters per second (m/s) year round to minimize take of Hawaiian hoary bats. To mitigate for bats, they propose to fund the restoration of 1,200 acres at Hawaii Volcanoes National Park. Pakini Nui also proposes to fund an increase in predator control and

commit funds for maintenance of a 5-mile cat barrier fence encompassing 600 acres of breeding habitat for the Hawaiian petrel on Mauna Loa. For Hawaiian goose mitigation, they propose to provide funds for the construction of a new 7-acre fenced enclosure at Piihonua on the Island of Hawaii.

Auwahi Wind

The Auwahi Wind project began commercial operation on December 28, 2012, and is located on Ulupalakua Ranch in east Maui. Auwahi Wind Energy, LLC, was originally issued an ITP from the Service on February 24, 2012. The Auwahi Wind project consists of eight Siemens 3.0-MW wind turbines, augmented with an 11-MW battery storage system. Ancillary facilities include an underground electrical collection system, an operation and maintenance facility, an approximately 9-mile 34.5-kilovolt (kV) above-ground generator-tie line, and an interconnection substation.

The original ITP, which was amended in 2014, authorized the following amounts of incidental take over the 25-year permit term: 5 Hawaiian geese; 87 Hawaiian petrels; 21 Hawaiian hoary bats; and all Blackburn's sphinx moths (*Manduca blackburni*) larvae and eggs within the footprint of the facility.

Auwahi Wind Energy, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat that has occurred during the first 5 years of operation. Auwahi Wind Energy, LLC, is requesting incidental take coverage for an additional 119 Hawaiian hoary bats (for a total of 140) over the 25-year permit term, which expires in 2037.

Auwahi Wind proposes to implement nighttime LWSC year-round at 5.0 m/s cut-in speed, and increase the LWSC to 6.9 m/s during the period August to October, when higher rates of take have occurred. They also propose to mitigate the take through reforestation and the creation of water features on up to 2,950 acres of ranchland.

Kaheawa Wind Power II

The KWP II project is located at Kaheawa Pastures above Maalaea town in the southwestern portion of the island of Maui, and began commercial operations in July 2012. KWP II, LLC, was issued an ITP in January 2012. The KWP II project consists of fourteen 1.5-MW wind turbine generators. Ancillary facilities include an underground electrical collection and communication system, an operation and maintenance facility, a battery energy storage system, and an overhead electrical transmission line connecting the facility substation to the County's electrical grid.

The original ITP authorized the following levels of incidental take over the 20-year permit term, which expires in 2032: 8 Newell's shearwaters (*Puffinus auricularis newelli*), 11 Hawaiian hoary bats, 30 Hawaiian geese, and 43 Hawaiian petrels.

KWP II, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat and the Hawaiian goose that has occurred during the first 6 years of operation. KWP II, LLC, is requesting incidental take authorization for an additional 27 Hawaiian hoary bats (for a total of 38 bats) and an additional 14 Hawaiian geese (for a total of 44 geese) over the 20-year permit term. KWP II proposes to implement nighttime LWSC at 5.0 m/s year-round and increase LWSC to 5.5 m/s from February 15 to December 15.

Proposed mitigation activities for the Hawaiian goose include funding the Hawaii Division of Forestry and Wildlife to conduct predator control activities at a breeding pen on Maui, at either Piiholo Ranch or Haleakala Ranch. For Hawaiian hoary bat mitigation, KWP II proposes to fund a research project being conducted by the U.S. Geological Survey to examine home range size, habitat use, diet, and breeding demography at roosting sites on the Island of Hawaii.

Kawailoa Wind Power

The Kawailoa Wind Power project is located approximately 4 miles from Haleiwa town on the north shore of the island of Oahu, and began commercial operations in November of 2012. Kawailoa Wind Power, LLC, was issued an ITP on December 8, 2011. The Kawailoa Wind Power project consists of thirty 2.3-MW wind turbine generators. Ancillary facilities include an underground electrical collection system, an operation and maintenance facility, and an approximately 4-mile above-ground transmission line.

The original ITP authorized the following amounts of incidental take over a 20-year permit term: 60 Hawaiian hoary bats; 12 Hawaiian ducks (*Anas wyvilliana*); 18 Hawaiian moorhens (*Gallinula galeata sandvicensis*, also known as the Hawaiian gallinule); 18 Hawaiian coots (*Fulica americana alai*); 24 Hawaiian stilts (*Himantopus mexicanus knudseni*); and 15 Newell's shearwaters.

Kawailoa Wind Power, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat that has occurred during the first 5 years of operation. Kawailoa Wind Power, LLC, is requesting incidental take

coverage for an additional 160 Hawaiian hoary bats (for a total of 220 bats) over the 20-year permit term, which expires in 2031. Additionally, Kawaihoa Wind Power has documented the take of two Hawaiian petrels at the site. Incidental take of this species was not authorized in their existing ITP; therefore, Kawaihoa Wind Power, LLC, is requesting incidental take authorization for 24 Hawaiian petrels in their permit amendment.

Kawaihoa Wind Power proposes to extend nighttime LWSC to year-round at 5.2 m/s, and test a bat deterrent in collaboration with NRG Systems. They also propose to provide a portion of the funding for the protection of 2,882 acres in the Koolau Mountains of Oahu, and protect/preserve or restore an additional 2,131 acres as mitigation for bat take impacts. To mitigate Hawaiian petrel take impacts, Kawaihoa Wind proposes to fund the Hawaii Division of Forestry and Wildlife to conduct predator control activities within a petrel breeding colony at Hanakapiai and Hanakoa, Kauai.

Background

The Pakini Nui Wind Farm, Auwahi Wind, KWP II, and the Kawaihoa Wind Power projects have each applied for a separate ITP under section 10(a)(1)(B) of the ESA. The PEIS was developed in response to these four ITP applications in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). A programmatic NEPA analysis of similar wind energy project-related permit decisions provides the following benefits: a comprehensive analysis of cumulative impacts across all projects; creation of a single document that the public is more likely to understand; a reduction in duplicative information that would otherwise appear in four

EISs; improved consistency in the NEPA analysis; and a more efficient and comprehensive solicitation of public input.

The HCP and HCP amendments describe how impacts to covered species would be minimized and mitigated. The HCPs also describe the covered species' life history and ecology, the HCP biological goals and objectives, the estimated take and its potential impact on covered species' populations, adaptive management and monitoring procedures, and mitigation measures for each project.

Endangered Species Act

Section 9 of the ESA and its implementing regulations in title 50 of the Code of Federal Regulations prohibit take of fish and wildlife species listed as endangered. The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct (16 U.S.C. 1532(19)).

Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental to otherwise lawful activities; (2) an applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) an applicant has ensured that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) an applicant will carry out any other measures we require as necessary or appropriate for the purposes of the plan. Regulations governing permits for

endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. The Service's general permitting regulations, found at 50 CFR 13.1–13.29, also apply to these actions.

National Environmental Policy Act

The development of an HCP and the proposed issuance of an ITP comprise a Federal action that triggers the need for compliance with NEPA. We reviewed public comments on the draft PEIS to inform preparation of a final PEIS analyzing the environmental impacts of a range of alternatives related to the issuance of the ITPs and implementation of the proposed mitigation actions under each HCP. The alternatives include: No Action, the Proposed Action, and Increased Curtailment.

Under the No Action Alternative, the Service would not issue the requested project ITP or ITP amendments, and the respective HCP or amendments would not be implemented. The Service expects that the applicants would act in a reasonable manner in order not to be legally liable for unauthorized take of the Hawaiian hoary bat, Hawaiian petrel, and the Hawaiian goose. The Service assumes that (a) all applicants would shut off wind turbine operations at night to fully avoid take of Hawaiian hoary bat, (b) that the three applicants seeking to amend their existing permits would continue operating turbines during the day as long as they continued to be in compliance with their existing ITPs, and (c) that Pakini Nui would implement other reasonable measures to avoid take of listed species.

Under the Proposed Action Alternative, the applicants would implement their HCPs in accordance with the descriptions provided above in **SUPPLEMENTARY INFORMATION**.

Under the Increased Curtailment alternative, the Service would issue the ITPs with a condition that the applicant would shut down turbines at night, between April 15 and September 15, when Hawaiian hoary bats are observed to be rearing young and are most active. Mitigation activities would be reduced commensurate with take levels. Nighttime LWSC activities listed under the Proposed Action alternative would occur during the remainder of the year (September 16 through April 14).

Under the Increased Curtailment alternative, the Service would issue an ITP amendment to Auwahi Wind Power for up to 84 additional Hawaiian hoary bats through the end of its permit term in 2037. Kawaihoa Wind would be issued a permit amendment for up to 83 additional Hawaiian hoary bats and 24 Hawaiian petrels through the permit term ending in 2031. KWP II would be issued an ITP amendment for take of an additional 16 Hawaiian hoary bats and 14 Hawaiian geese under alternative 3 for a permit term ending in 2032. Finally, Pakini Nui Wind Farm would be issued a new ITP allowing take of 16 Hawaiian hoary bats, 3 Hawaiian petrels, and 3 Hawaiian geese through the permit term ending in 2029.

EPA's Role in the EIS Process

In addition to this notice, the EPA is publishing a notice in the *Federal Register* announcing this EIS, as required under section 309 of the Clean Air Act. The publication date of EPA's notice of availability is the official beginning of the public comment

period. EPA's notices are published on Fridays.

EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed with EPA. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Public Involvement

The notice of intent to prepare a programmatic EIS was published in the *Federal Register* on June 1, 2018 (83 FR 25475), announcing the start of a 30-day public scoping period. During the scoping period, public scoping meetings were held on each of the three islands where the proposed wind projects were located: Oahu, on June 21, 2018; Maui, on June 20, 2018; and the Island of Hawaii, on June 18, 2018. Eighteen members of the public attended the scoping meetings, and 12 scoping comment letters were received by the Service.

The notice of availability for the draft Programmatic EIS was published in the *Federal Register* on April 26, 2019 (84 FR 17875), for a 45-day public comment period. Public information meetings were held on Oahu, Maui, and the Island of Hawaii on May 21, 22, and 23, 2019, respectively. A total of 29 members of the public attended the meetings, and 41 comment letters were received during the comment period.

Next Steps

We will evaluate the permit applications, associated documents, and public comments in reaching a final decision on whether the applications meet the requirements

of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will evaluate whether each proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue an ITP to each applicant. We will issue a record of decision and issue or deny each ITP no sooner than the date specified above in **DATES**.

Public Review

We are not requesting public comments on the final PEIS and HCPs, but any written comments we receive will become part of the public record associated with these actions. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32), and per NEPA and its implementing regulations (40 CFR 1506.6).

Robyn Thorson,

Regional Director, Pacific Region,

U.S. Fish and Wildlife Service.

[FR Doc. 2019-16398 Filed: 8/1/2019 8:45 am; Publication Date: 8/2/2019]